TO THE FRIENDS

OF

LAW AND ORDER,

OF

ALL PARTIES.

A bill of which a copy is given below, has been introduced into the House of Assembly, on behalf of a class of men, who call themselves *Anti-Renters*, some of whom at a recent public meeting, adopted a resolution as follows:

"*Resolved*, That we will give our suffrages to no man for a delegate to the State Convention for altering the Constitution, unless he is honestly and fairly a friend to *our cause*." It is fair to *infer* from the evidence furnished by the votes given at the last election, that the suffrages of the Anti-Renters for Governor, Senators, Assemblymen, and all other elective officers, are to be restricted in the same manner.

This public announcement to whom their suffrages shall not be given, will not be without effect, upon those who wish to be Governors, Senators, Members of Assembly or Members of the Convention, and who have more ambition than honesty.

What is the cause of the *Anti-Renters*, to which every man who wants their suffrages must be a friend? Let the following bill answer:

"AN ACT

CONCERNING TENURES.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. In any action brought to recover the possession of land for the non-performance of any condition contained in the grant or lease, where such grant or lease is in fee or for one or more lives, or for a term

of years exceeding ten years, the defendant shall be at liberty to deny the validity of the original title under which such grant or lease was made; and in such case the plaintiff shall be required, before he shall be entitled to recover in such action, to establish the validity of the title under which he or the person or persons under whom he claims title, claimed to hold such land at the time of the execution of the grant or lease containing the condition or reserving the rent, for the non-performance or non-payment of which the action is brought, in the same manner as if *the possession* of the grantee or lessee *had been an adverse possession.*"

By the above bill, it is proposed to abolish a most important, long established and salutary rule of the common law, with no other view, than to take from one class of men their just rights without any compensation, and to exempt another class from a faithful performance of their contracts voluntarily made. The rule of the common law, as well as of justice and common honesty, now is, and for ages has been, that if one man borrowed a horse of another, he thereby admitted that the lender had title to the horse, and the borrower could not, rightfully claim to keep the horse, under pretence that the lender did not own the horse which he lent. So, if a farmer purchased goods of a merchant, he could not rightfully keep the goods, and refuse to pay for them, under pretence, that the merchant had no title to the goods when he sold them; nor could the merchant, who purchased a thousand bushels of wheat of a farmer on a credit of sixty days, refuse payment, because the farmer had cheated his landlord out of his rent, and refused to pay the laborers who plowed his fields, sowed, harvested and thrashed his wheat. No, the man who borrows the horse must return him, the farmer who buys the goods, and the merchant who buys the wheat, by the purchase, admit the title of the vendors; the same rule applies to contracts, leases and deeds of, or in relation to land. If one man makes a contract to purchase land of another, and takes possession of the land under the contact to purchase, and pay for it, he must abide by his contract, and while he remains in possession, he cannot deny the title under which he entered. So if a man takes a lease of another, in fee, for life or for years, and covenant to pay an annual rent, and in case he fails to pay the rent, and there be no sufficient distress on the land, that the lessor shall have a right to *re-enter* on the land, and eject the lessee; while he remains in possession under the lease, he is not allowed to deny the title of the lessor. Why should he be allowed to deny that title, any more than the man who borrowed a

horse, should be allowed to deny that the man who lent the horse, owned him? So, if one man buys a farm and takes a warrantee deed, and gives a bond and mortgage to secure the payment of the purchase money; he cannot keep possession of the land, and refuse to pay his bond and mortgage, because he may suspect that his grantor had no title to the land, when he gave the warrantee deed. If the borrowed horse should be taken from the borrower, under an execution against the lender, or by some person from whom the horse had been stolen, the borrower would have a good excuse for not returning him according to his promise. So, if the farmer had been deprived of the goods, and the merchant of the wheat, because the vendors had no title, they would have good cause to refuse payment; and if the lessee should be turned out of possession, by some person having a better title than the lessor, he might then deny the title of the lessor, and refuse to pay rent; and if his lease contained a covenant of warranty, he would have a right of action against his lessor, for a breach of that covenant. And if the man who entered under a warrantee deed be evicted, he can resist the payment of the bond and mortgage which he gave for the purchase money, and sue his warrantor and recover damages. But, by the terms of the above bill, every person who has taken a lease or grant in fee, for life, or a term exceeding ten years, and any person holding under such lease or grant, may whenever an action shall be commenced against him to recover possession of the land, for the non-performance of any condition contained in the grant or lease, deny the validity of the original title, under which such grant or lease was made. And, unless the person bringing the action, can show that the person who gave the lease or grant, had a title to the land *when* the lease or grant was made, the person now in possession, is to hold the land discharged of all the covenants and conditions in the lease, and in violation of his covenant that he would pay an annual rent, and in default thereof, that the lessor might *re-enter* and eject him. The policy of the legislature, not only of the colony, but, of the state of New York, has been to quiet the title to lands, and put an end to litigation. The legislature of the colony, on the 30th October, 1710, passed an act, "enacting, that every person or persons who, by themselves, their *tenants* or servants, or his or their assignee or assigns, grantees, their ancestors or others under whom they claim, have been seized to their own use or uses, or taken the *rents*, issues and profits of any messuages, houses, tenements, lands and hereditament whatsoever in this colony, in his or their own proper right, for

the space of ten years then last past, and should so continue, whether in their own persons, or by any other person under them in possession as aforesaid, without any claim, either by actual entry, and possession thereupon continued, or suit to be prosecuted to effect until the 1st day of September, 1713. Should from and after that day, and forever, be adjudged, deemed and taken to be the true, rightful and lawful owner of such messuage, houses, lands, tenements and hereditaments respectively, and should and might have, hold and enjoy the same. Any claim, right, title, demand or pretence to the contrary thereof, by or from any person or persons whatsoever."

This act shows, that the possession of a tenant or lessee was to enure to the benefit of the lessor. That if upon the 30th day of October, 1700, any person had given a lease in fee, reserving rent, and he had been in the receipt of the rents from 1700 to the 1st of September, 1713, his title to the *rents* and all the covenants in the lease became perfect, as against all persons then having any adverse claim. There are, doubtless, many leases in the state which were given before 1700, and under which lands are now held, and under which the rent has been regularly paid, until the lessee was lately told, that he ought now to have the right to compel his lessor or his assigns to prove, that the person who gave the lease had a title when the lease was given—but, he now refuses to pay the rent, and takes good care, that there shall be no sufficient distress found on the land; and the only remedy left to the lessor, is to bring an action of ejectment to recover possession of the land in order to compel a payment of the rent. The lessee, or those claiming under the lease, now ask the legislature to pass an act, the object of which is to take from the lessor or his assignee, that which is now perfect evidence, and it may be, the only evidence of title which it is in the power of the lessor or his assigns to produce. If that title was made perfect by the act above referred to, no witness can be found who can prove a possession from 1700 to 1713, but the lease might be evidence of such possession and of a perfect title in the lessor; and why should the legislature rob the lessor or his assigns of that evidence for no other purpose, but to enable the lessee or his assigns to violate the covenants in the lease,—that in case the rent was in arrear and no sufficient distress could be found on the land, the lessor or his heirs and assigns might *re-enter* and eject the lessee, or any person holding under the lease? On the 26th February, 1788, the legislature of this state pass-

ed an act which commenced with the following recital: "Whereas it is necessary for the peace of society, that certain times be limited for bringing all actions and suits at law." By the first section of that act, it was in substance enacted that the people of the state of New York should not, nor would after the 1st day of January, 1800, sue any person for or in any wise concerning any *manors*, lands, tenements, *rents* or hereditaments, or for or in any wise concerning the revenues, issues or profits thereof, or make any title, claim or demand of, in or to the same or any of them, by reason of any title which had not, or should not thereafter first accrue and grow within forty years next before commencing such action. The right and title of the people of the state to all the ungranted lands in the state is held to have accrued on the 4th day of July, 1776, when the declaration of Independence was published. If any person was then in possession of land belonging to the people of the state claiming it as his own, his title became perfect on the 4th day of July, 1816; after that day the people of the state could not question his title. The counsel for the Anti-Renters when before the legislative committee, was understood to insist, that this statute of limitation did not operate in favor of lessors, but only in favor of the lessees and their assigns, who were in the actual occupation of the land leased; but, it is believed, that this statute was intended to secure, and did secure, to lessors as well as to lessees, the rights and interests which they respectively had, *or claimed to have*, and which the people should not claim within the time limited by law. It was never intended to secure to any one *more* than he claimed, if he claimed an estate for years or for life; that estate, and not a fee was secured to him. By the first section it was further enacted, "that all and every person or persons, bodies politic or corporate, their heirs and successors, and all claiming by, from or under them, or any of them, for and according to their and every *their several estates* and interests which they have, *or claim to have*, or hereafter shall or may have, *or claim to have* in the same respectively, shall at all times hereafter, quietly and freely, have, hold and enjoy, against the people of the state of New York claiming by any title which hath not first accrued or grown, or which shall not thereafter first accrue or grow within the space of forty years, all and singular the *manors*, lands, tenements, *rents* and hereditaments whatever (other than liberties and franchises) which he or they, or his or their, or any of their ancestors or predecessors, or those from whom, by or under whom he or they do, or

hereafter shall claim or have, or hereafter shall have, held or enjoyed, or take the *rents*, revenues, issues and profits thereof by the space of forty years next before the filing, issuing or commencing of every such action, &c."

Many leases for years, for life or in fee were given before that act was passed, but a much greater number have been given since that time, and more than forty years ago; in which the lessees respectively covenanted to pay an annual rent, and if the rent should be in arrear, and no sufficient distress could be found on the land leased, that then the lessor, his heirs or assigns might *re-enter* and eject the lessee. When a lease was given before or since that statute, what estate and interest has the lessor and lessee respectively had *or claimed to have?* The lessees have had, or *claimed to have the estate* discribed in the lease, whether for years, for life or in fee, subject to the payment of the *rent* and the performance of the covenants and conditions in the lease on his part to be performed, and the lessors have had, *or claimed to have*, the right to the *rent* and to *re-enter* and eject the lessee in case he did any act giving to the lessor the right to *re-enter*. If the land leased did in truth belong to people of the state, when the lease was executed, and the people have suffered the lessee to remain in possession twenty years, claiming under the lease, and suffered the lessor to receive the *rents*, the title of the people is gone, and the title of the lessor and lessee is now as perfect as if the lessor had had a patent under the great seal of the state, when the lease was given. For, by the Revised Statutes, the people of the state cannot bring an action to recover land, except within twenty years next, after the title shall accrue. 2 *R. S., p.* 221, *sec.* 1. A title made good by a statute of limitation, is as much under the protection of the constitution and law, as a title acquired in any other way. If a man had possession of land so long, that neither the people of the state nor any individual has the right to turn him out of possession, what better title can he have? Such a title cannot be taken from him for public use, without a just compensation, and it cannot be taken from him for a private purpose without his consent. 4 *Hill's Rep.*, 150.

To take from a man the evidence of his title, or to forbid him to use it upon the trial of his cause, as effectually take from him his estate, as to confiscate it by an act of the legislature. By the 13th section of the constitution of 1777, it was declared, "that no member of the state should be disfranchished or deprived of any of the *rights* or privileges secured

to the subjects of this state by that constitution, unless by the law of the land or the judgment of his peers."

One of the *rights* secured to every citizen of the state by that constitution was, to have the full benefit of all such contracts as were lawfully made to him. If he was a lessor, the lease signed by the lessee, was while the lessee remained in possession sufficient evidence of the lessors title. He had a right to say to the lessee, while you hold under that lease you cannot dispute my title to the rent, or to re-enter according to the lease. Can that right be taken from the lessor, even for public purposes without just compensation?

It was stated before the said committee, on behalf of some of the lessees in the county of Delaware, as a matter of serious cause of complaint, that the proprietors of the Hardenbergh patent, which was granted in 1708, had wrongfully claimed under that grant, the land between the east and west branches of the Delaware river. It was insisted, that that patent did not in truth extend beyond the east branch of that river, and that the lessees therefore, now ought to have the right to compel the lessors, or persons claiming under them, to prove that the lessors had a valid title when the leases were given. The boundaries of that patent are truly set forth in 10*th Johnson's Rep.*, 429, and neither the eastern or western branch of the Delaware river is named in the grant, "*a certain small river, commonly known by the name of Cartwright's Kill*," is mentioned as the western boundary of the patent. The dispute must have been as to which of the branches of the Delaware was known as "*Cartwright's Kill.*" Who can now swear what small river was, one hundred and thirty-eight years ago, commonly known by the name of "*Cartwright's Kill?*"

The proprietors of that patent insisted, that that was the name of the west branch of the Delaware; and the people of the state have acquiesced in that claim until this time; and can it now be expedient, equitable or just, to seek to disturb the location of a patent after the lapse of one hundred and thirty-eight years? If that patent was originally located by mistake or fraud, those who committed that fraud or mistake have long since ceased to have any interest in the lands lying between the eastern and western branches of the Delaware. The persons who now own that land, are probably bona fide purchasers, and have given leases of it in perfect good faith. Why take their estates away, to give them to their lessees? Or why impose on them at this day the expense of try-

ing to prove what stream of water was in 1708 "*commonly known by the name of Cartwright's Kill?*"

A gentleman from Columbia county, on behalf of the lessees, complained that under the grant of Livingston's manor, the grantors had taken possession of much more land than was covered by the grant. That grant was made in 1715—one hundred and thirty-one years ago, and recites three previous grants; one in 1684, one in 1685, and the other in 1686. The grant of the manor professes to give the boundaries with great particularity, and they doubtless might, at the time of the grant, have been easily ascertained; but had no location been made, it would now probably be very difficult, if not impossible, to discover many of the monuments mentioned in the grant. The place of beginning is a place called by the Indians *Wahancassock;* one monument to which a line is to be run, is a place where the Indians have laid *several heaps of stones;* another, a pile of stones on a hill; another, five linden or lime trees, all marked with *Saint Andrew's Cross;* other monuments are trees marked with L. It is doubtful, whether one of these monuments can now be found. The probability is, that the lands in this manor have been held and claimed by the proprietors and their tenants more than fifty years. Why then call upon the lessors who now own the manor, to prove where the linden tress marked with *Saint Andrew's Cross* stood one hundred and thirty-one years ago, or submit to lose their estates? If in locating the Hardenbergh patent or Livingston's manor the proprietors originally claimed too much land, how have the lessees who now complain been injured by that mis-location? The lessees have not been disturbed by any adverse claim, nor have they the least reason to fear any such disturbance. They have now the full benefit of their respective contracts.

On the part of the proprietors of the manor of Rensselaerwyck, an offer was made to submit to the examination of the committee, all the muniments of title in relation to that manor; but the offer did not appear to be acceptable to the lessees. In relation to that manor, it has been alleged as an apology for the present anti-rent excitement, and as a reason for the interference of the legislature, that most of the lessees were ignorant *Germans* and *Hollanders*—who did not know what covenants and conditions were in the leases, and if they did know, they were compelled to sign them, or abandon valuable improvements. Most of this allegation must be founded in ignorance or mistake. In 1767, a survey and large map of the manor was made, and all the roads, the location

of every dwelling house were designated upon the map, and on it is written the name of every tenant then on the manor. At that time, there were only one hundred and forty-four tenants on that part of the manor, on the west side of the Hudson river, one hundred and seven of whom, then had leases in fee.

In 1769 the grandfather of the present proprietor of the manor died. The late patroon was then an infant, and he did not come of age until the fall of 1785. During his minority no person had authority to make contracts or give leases, binding on him after he came of age; but many short leases for years were given by the executors, all of which expired at or before he was of age. In the spring of 1786, Gen. Ten Broeck who had had the principal management of the estate, delivered over to the late patroon all the muniments of the title to the manor, and a list of the tenants thereon, at that time there were about five hundred on the west part of the manor. The four western towns, now in the county of Albany, were then almost an entire wilderness, and up to that time very few farms had been accurately surveyed; but soon after, the whole manor was surveyed, and leases given as fast as the survey could be made. The late patroon gave all the leases which ever were given for lands in the manor on the west side of the river, except one hundred and seven; and he, if any one, must have committed all the frauds which are now alleged to have been committed upon the lessees when they executed the leases. If he committed the gross and multiplied frauds now complained of, how did it happen that he, during his whole life was almost universally respected by the lessees and all others? How did it happen that those frauds were not discovered until after his death and the death of the lessees who were defrauded? It is not true, that the lessees were generally ignorant Germans and Hollanders—not one-tenth part of the leases were given before the revolutionary war—no leases in fee were given between 1769 and 1786; few, if any, ignorant Germans or Hollanders came to this country during the revolutionary war, except German soldiers who were taken prisoners. Before the revolutionary war, Dutchmen were to be found in cities—on the best lands along the Hudson and Mohawk rivers, and the Schoharie kill; but few, very few of them could then have been found upon mountains. The leases furnish evidence that the lessees were not generally ignorant and illiterate men. More than four-fifths of them wrote their names in English; not more than four out of a hundred wrote their names in German or Dutch, and

the residue made their marks; and let it be remembered that the leases signed in German and Dutch, and with a mark, are of the same form as those signed by the most intelligent lessee: it is idle, therefore, to suppose that it was not generally known by the lessees, what covenants and conditions were in the leases. Most of the leases for lands, in the towns of Knox, Rensselaerville, Westerlo and Bern, were given between 1791 and 1800; and it is well known that the Helderbergh war commenced in those towns, and not in the eastern towns where Dutch lessees were numerous. In the present town of Watervliet, where a greater part of the original lessees were Dutchmen, than in any other town in the county, the Anti-rent excitement has found very little encouragement or support. A great majority of the persons who now hold under the leases, especially in the four western towns in the county of Albany, are not originally lessees, or the heirs of lessees—but men who have, with a full knowledge of the covenants and conditions in the leases, purchased from the original lessees, or their heirs. What just cause of complaint have they? What reason have they to lash themselves into a rage, in relation to the odious character of the leases. No man compelled them to purchase the farms held under those leases. If they supposed it was degrading to freemen, or anti-whig, or anti-republican to agree to pay a rent in wheat, hens, and a day's work, why did they voluntarily purchase farms, the rent of which was to be so paid? Did they purchase the farms with intent to withhold the rent and violate all the covenants and conditions in the leases? And must the law and constitution of the state, and of the United States, be broken down in order to allay the excitement of such men?

The above bill is without object, unless as the law now is, a lessee cannot while in possession deny the lessor's title. The bill is without object, unless the lease as between the lessor and lessee, is conclusive evidence of the lessor's title: a lease executed by the lessee is an admission under his hand and seal, that the lessor had, when he executed the lease a title to the land leased. The covenant of the lessee contained in the lease, that he would pay an annual rent, and if the rent was in arrear, the lessor might distrain, and if no sufficient distress could be found, that then the lessor might *re-enter* and eject the lessee or any person claiming under him, is a contract from the obligation of which, the lessee cannot be relieved consistently, with that clause in the constitution of the United States, which forbids any state to "*pass any law impairing the*

obligation of contracts." The legislature can as well "*grant a title of nobility,*" as to pass a law impairing the obligation of contracts.

If, as the law now is, all the evidence which a lessor need give to entitle himself to recover possession of the land leased, is to prove the execution of the lease by the lessee, and that he has done or omitted to do some act, by which he has given to the lessor a right to *re-enter*, by what authority can the legislature now have, to say to him, "such shall not hereafter be the effect of the lease; the lessee shall no longer be bound by his contract; you shall not recover unless you can prove that *when* you executed the lease, you had a perfect title? No matter whether your title has since become perfect by force of any statute of limitation, or whether you have since purchased in all outstanding claims, or whether your title depends upon the question whether a patent granted one hundred and fifty years ago, was then located in exact conformity to the monuments mentioned in the grant, not one of which can now be found. You shall be bound to show, that you had forty, fifty, sixty or seventy years ago, a perfect title to the land leased, or you shall no longer be entitled to the rent, nor the benefit of any covenants in the lease, and your lessee shall hereafter hold the land, discharged of all the covenants in the lease?" If this would not be taking one man's estate and giving it to others, what would it be? What reason can be assigned for such legislation, other than that the men to be robbed, have few votes to give compared with those who are to be benefited by the robbery? If the principle of the bill be a just and sound one, why not extend it to all leases? The lessee who has been fifty years in possession under a lease, has no reason whatever to doubt the title of the lessor, while the tenant who has been in possession but six months or a year, has much less evidence of the validity of title under which he entered; the only answer must be, tenants for short terms have not yet joined the Anti-rent standard and given a public pledge that they will vote for no man unless he is a friend "*to their cause.*"

Why not extend the principle to notes, bonds and mortgages? Suppose C, seventy years ago owned, or claimed to own, a large tract of land; A took a lease in fee with warranty, and covenanted that he would pay a rent of twenty dollars a year, and if the rent was not paid, C might *re-enter* and eject him. B at the same time took a deed in fee with warranty, and gave a bond and mortgage for the purchase money with interest; the mortgage contained a power, authorizing C to sell the

land at public auction, in case the mortgage was not paid on demand. A has regularly paid his rent, and B as regularly his interest up to the commencement of 1840, and they now both come to the legislature for relief. A wants a law passed, that before C shall be allowed to *re-enter* under the lease, he shall prove in a court, that he had a perfect title when the lease was given. B wants a law forbidding C to sell, by virtue of the power in the mortgage, until he proves that he had a title when he gave the deed. Which of the two repudiators would be most entitled to legislative favor? A can pay his rent without inconvenience; but B must sell his farm, or he cannot pay his bond and mortgage.

As the law now is, the question whether the lessor had a good title when the lease was given, is wholly immaterial, as far as it respects his rights to *re-enter;* that right, in no degree, depends upon his title when the lease was executed, but, upon the covenants in the lease, and whether any of these covenants have been so violated, as to give a right to *re-enter* to the lessors—suppose a lessor should commence an action of ejectment against his lessee, and on the trial give in evidence Indian deeds, then Dutch grants, English and colonial confirmations, wills from fifty to one hundred and fifty years old, then an old surveyor to prove that the premises in question were within the grant, then the oldest man in the county to prove by reputation his pedigree, and thus prove that he had seventy years ago a good title, would that entitle him to recover? No! The lessee would then give the lease in evidence; and he might well say to the lessor, "there sir, by that lease seventy years ago, you granted to me all the estate you then had in the land, which you now seek to recover, on condition that I should pay certain rents and perform other covenants; you might as well have spent a week to prove that you own all Oregon, as in showing your old Indian deeds and Dutch grants, and in proving that your grandfather's grandfather was a patentee. Your counsel know, that your right to recover did not depend upon the title you had when you gave the lease, but upon my covenants in the lease, and my violation of them; now give the evidence, with which the trial ought to have commenced, prove if you can, that I have violated any covenant in the lease which has give to you a right of *re-entry.*" If a lessor, or any person claiming under him, shall under the above bill be unnecessarily compelled to prove that the lessor had a good title when the lease was given, would it not be perfectly reasonable to add to the bill, the following clause: "and in every such action in which the defendant

shall deny the validity of the title under which the grant or lease was made, and the plaintiff shall establish the validity of that title, he shall be entitled to recover, notwithstanding such grant or lease, or any possession under it." If a defendant chooses to put his defence upon a plea denying the validity of the title under which he entered, is it unreasonable that he should abide by the consequences of his own folly? If a lessor ought to be compelled to prove that he had a good title when he made the lease, before he is allowed to recover the rent, which the lessee covenanted to pay. He who sells a load of wheat, a yoke of oxen, or a horse on credit, should be compelled to prove his title before he is allowed to recover the price which the vendee promised to pay, but would a law, requiring that to be done, be a wise innovation? Suppose a rich Anti-Renter who wished to have money on interest, had seven years ago sold a favorite span of horses for five hundred dollars, payable in six years, with annual interest, and taken a note therefor, suppose he lately called upon the purchaser and presented the note for payment, and the purchaser had gravely answered the application by saying, "it is true that I purchased the horses and gave the note, it is true that you gave me a bill of sale of the horses, with a warranty of title, it is also true that I have had the horses so long, that my title is now perfect; but I have recently heard insinuations made against your title, one man hinted that you stole the horses in Canada, another, that many years ago you were amongst the Cherokee Indians, and while there, you got an Indian half drunk, and then cheated him out of the horses for a bottle of rum; another man says, that a poor man owed you three dollars rent, you issued a distress warrant and sold the horses, and purchased them for fifty cents. I hope no man will for one moment believe, that I am so dishonest as to be willing to cheat you out of a cent, but under the circumstances of the case, my conscience will not allow me to pay that note, until you shall in a court of justice, prove all these stories to be false—and that you had, when you sold the horses to me, a fair title to them. Oh sir, you need not begin to bluster and look surprised. What can be more reasonable, then that you should send to Canada, or to the Cherokee Nation for a witness to prove that you came fairly by the horses? I have taken counsel upon this matter, and have been informed that it is against *the fundamental principles of our republican institutions* to hold, that I admitted your title to the horses by purchasing and receiving them from you. Previous to the last election, I stated the case to some counsellors, learned in the law, who wished to become

members of the legislature, and they told me, that it was perfectly fair and honorable in me, to *keep* the horses and refuse to pay for them, until you should prove that they were your's bona fide when you sold them; that it would be most outrageously oppressive to compel me to pay for the horses, while I chose to pretend that, there were doubts as to your title, or that in such refusal to pay, there was anything like *repudiation*, and, that if the law was not then such as to protect me in keeping both the horses and the money,—if I would aid them to get into the legislature, they would have the law altered so as to suit my case. Let me whisper in your ear, that I secured to them a majority of *seven thousand!* I understand that you are an Anti-Renter in full communion. That fifty years ago, John Jackson took a lease in fee, with warranty of the farm you now occupy, that he remained in possession twenty-five years and regularly paid the rent, that you then took an assignment of the lease, subject to the performance of all the covenants and conditions in the lease, and have paid the rent down to 1840; and now, you not only refuse to pay rent as you covenanted to do, but have entered into a combination with all the Anti-Renters in the third district, to vote for no man for governor, senators, member of assembly, member of the convention, or any other elective officer unless he will pledge himself to do all in his power to release you from the obligation of the covenants in your lease, and if that cannot be done under the consitution as it now is, the constitution which is to be, must be so framed as to discharge you from the payment of rent, or the performance of any covenant in the lease. Now sir, tell me which of us is the most honest? Tell me which of us is the most of a *repudiator?* Your farm has been held fifty years under the lease, you know, therefore, that the title under which you hold cannot be questioned; but I have had the horses only *seven* years—and you pretend that, that ought to satisfy me that you had title to them." You cannot pretend that the Anti-rent excitement was got up on account of the reservation of a quarter sale in your lease. No sheriff has ever been tarred and feathered, shot at or murdered, when attempting to enforce the payment of a quarter sale; but all these outrages have been committed when legal efforts were made to collect rents; you say that you have never had on an Indian dress—that you have not aided in tarring and feathering, shooting at, or murdering a sheriff; but you have not said a word, or lifted a finger to prevent these violations of law, on the contrary, you have attended public meetings, you have addressed men less

informed than yourself, you have made them believe that they were oppressed,—that they were vassals and slaves while they submitted to hold lands under a lease, that men who were oppressed ought to band together and resist oppression by force—that the next day John Doe's property was to be sold on execution for rent, and that every man among them who had strong arms and a stout heart, ought to be present at the sale in his Indian dress, with a bucket of tar, a bag of feathers, a tomahawk or rifle, and in this way you have occasioned more expense to the people than all the rents due from the lessees on any manor in the state, and encouraged open resistance to the laws, and that has already led, as you expected and intended it should, to murder after murder.

It is now submitted to the friends of law and order, whether *the cause* of the Anti-Renters as set forth and embodied in the above bill, is one so important and of such transcendent merit, that a rule of law, sanctioned by the wisdom of ages, ought now to be overthrown, to enable them to violate with impunity, the *obligation* of their own contracts deliberately made and upon full consideration? If it shall be found, that they ask for more than can be granted to them under the constitution of this state as it now is, are they then to have the control of the election of delegates to the convention, in order that a constitution may be formed for the purpose of exempting them from the payment of rents, which they have covenanted to pay?

Other bills have been introduced into the assembly, which are supposed to have been drawn up at the request, and for the special benefit of the Anti-Renters. One of them is entitled "*an act to equalize taxation*," by which it is proposed, that rents reserved in leases in fee, or for one or more lives, or for a term exceeding ten years, and chargeable on lands, shall be assessed in the town or ward in which such lands are situate, to the person entitled to receive the same, *as personal estate* at a principal sum, the interest of which, at six per cent per annum, shall produce a sum equal to such annual rents. Rents due from solvent lessees are believed to be, *debts due from solvent debtors* within the meaning of the *Revised Statutes*, *part* 1, *chap.* 13, *title* 1, *sec.* 3, and to be now taxable as personal estate in the town or ward in which the person entitled to such rents, may reside. Rents, whether reserved upon leases in fee, for lives or for one or more years, the moment they become due, are personal estate, and on the death of the owner, go to his personal representative, not to his heirs at law. If an annual rent of twenty-four dollars, has be-

come due on a lease for more than ten years from a solvent lessee, the owner of the rent is now liable to be taxed for that sum as personal estate. So if an annual rent of the same amount has become due on a lease for ten years or less, the owner of that rent is now liable to be taxed therefor, the same amount as the owner of the other rent, if they happen to reside in the same town. If a tax of *one per cent* on the amount of each man's estate, be necessary for the public service; the owners of the rent above mentioned, would have each to pay a tax of *twenty-four cents*. But this equality is to be destroyed, if the proposed bill becomes a law, then the owner of the rent on the lease for eleven years, is not to be taxed on the amount of twenty-four dollars, but on a sum which, at six per cent per annum, will produce twenty-four dollars, to wit, *four hundred dollars*, and his tax at one per cent, will be *four dollars*, while the tax on the owner of the other annual rent recovered on a lease for ten years or less, will remain at *twenty-four cents*. One would have to pay a tax amounting to *one-sixth* part of his income, while the other would have to pay only *one-hundreth part of his income*. The income of each being of precisely the same value. Is it not a *misnomer* to call this "*an act to equalize taxation*"? which will increase the tax on one man, more than *sixteen fold*, and leave the tax on another, the same as it now is, each of them having property of the same character and of the same value? Why are the owners of rents reserved upon leases in fee, for one or more lives or for a term exceeding ten years, selected as the victims of taxation, and the owners of rents reserved on leases for a term of ten or a less number of years, left untaxed? Why is it proposed to add to the taxes of some rent owners the amount of one-sixth part of their income, and not add a cent to the taxes of other owners of the same description of property? Will it not be an abuse of the power to impose taxes, to tax the income of one man sixteen times more than an income of the same amount and of the same character, belonging to another? It may be said, that the proposed tax, is not a tax on rents after they become due, but on the right or title to rents reserved, or a tax on an *incorporeal hereditament*, not now taxable, by force of *part* 1, *chapter* 13, *title* 1, *section* 1, *of the Revised Statutes*, which in terms only includes "*lands and personal estate.*" Admit that the proposed bill was intended to introduce a new subject of taxation, that it was intended to impose a tax upon income. That will furnish no justification for the gross inequality in taxation, which the bill, if it becomes a law, will

produce. The object of the legislature, has heretofore been, so to impose taxes, as to make every man bear the public burthen, in proportion to his wealth, and while that object is fairly pursued, no man can have just cause of complaint. If the owners of *a right to rent* are now for the first time to be taxed for that description of property, let the law extend to every owner of such property. Suppose that the owners of horses had not heretofore been taxed for that description of property, would not a law imposing a tax, on B, for six horses owned by him, and which should leave C untaxed, although he had as many horses as B, and of equal value, be regarded as partial and unjust? But is not the proposed tax upon the right to rents equally objectionable, if confined to rents reserved on leases in fee, for life or a term exceeding ten years? An annual rent, of twenty-four dollars reserved on a lease for ten years, is during the ten years of the same value, as an annual rent of the same amount, reserved on a lease for a much longer term. The sum, which, at six per cent per annum, will produce a sum equal to the annual rent, is a sum to which the lessor, whether in fee, or for ten years or less, is not and cannot be entitled. All the lessor in fee can claim, is the annual rent, unless the lessee should forfeit his estate. A lessee for life or for years has a reversion, and when his right to the rent ceases, the right to the land itself returns to him; he has therefore a much greater interest requiring the protection of the law, than the lessor in fee, and it would seem that, if either ought to pay more than the other when their rents are equal, he ought to pay the most, who is soonest to have the possession of the land leased. Although the legislature have power to impose taxes, it would be a violation of the spirit, if not the letter of the constitution, to impose a tax, not because it was needed to defray the public expenses, but to coerce any individual to sell, or abandon any description of property.

FAIR PLAY.

Albany, March 17, 1846.